Am. St. Rep. 505. The grounds asserted by the council in the principal case for refusing to call the election were that no sufficient grounds were stated in the petition for causing the removal of the officers. This decision adds to the growing body of recall legislation the principle that courts cannot pass upon the sufficiency of the grounds alleged in asking for a recall. "It is clearly the privilege of the people at the polls, rather than the province of the courts, to pass upon the sufficiency of the grounds stated for the removal of an elected officer by the modern method of a recall election."

PROCESS—EFFECT OF SERVING AN UNSIGNED SUMMONS.—An unsigned summons was served on defendant, but the cover of the summons was properly endorsed by plaintiff,s attorney, and attached to it was a copy of the complaint signed by plaintiff's attorney. The original summons was duly signed. Judgment was had against defendant by default. Motion by defendant to vacate the judgment and set aside the service of the summons for the reason that no summons had ever been served was denied. Affirmed, *Harvey* v. *Chicago & N. W. Ry. Co.* (Wis. 1912) 134 N. W. 839.

In Wisconsin it is provided by statute that the summons shall be subscribed by the plaintiff or his attorney. The court in the principal case said: "Defendant had the right to assume that the copy of the summons served was what it purported to be, a true copy of the original, and, *if* an unsigned summons is in fact no summons at all, then the court acquired no jurisdiction of the person of the defendant." There is a conflict as to the effect of want of proper signature, some courts holding the process absolutely void; others, voidable only. 32 CYC. 440, 441 and cases there cited. The conflict seems due to different interpretations of the legislative intent, some courts holding the statutes to be mandatory, others holding them to be directory merely. In *Mezchen* v. *More*, 54 Wis. 214, cited by the court in the principal case, it was held that a printed name at the end of a summons is equally as efficient as when written there. See 20 ENCYL. PL. & PR. 1125. And the court, in that case, said that the only object in requiring the name and address of the party or his attorney is to let the defendant know upon whom and where he can serve his papers in the action. Thus the court in the principal case held that the papers annexed to the summons gave the defendant sufficient notice, and that the omission of the defect was a mere irregularity and not jurisdictional. Minnesota, upon facts similar to those of the principal case, held the omission an irregularity only. *Lee* v. *Clark*, 53 Minn. 315; Iowa. *Contra*: *Hoitt* v. *Skinner*, 99 Iowa 360. Both cases are cited by the court in the principal case.

TRADE UNIONS—PROCURING DISCHARGE—ESTOPPEL.—Plaintiff, a foreman, refused to acquiesce in the demand of the union that all foremen join the union and pay an unfair initiation fee. Thereupon the members of the union struck. Later, at the superintendent's suggestion, the men working under the foreman voted on whether he should be retained or discharged. The foreman was present, and while he did not agree to abide by the result, he made no objection to the taking of the vote, which resulted in favor of his discharge, and in pursuance of which, the superintendent discharged him. *Held*, the strike being unjustifiable, the plaintiff had a right of action against all

the members of the union, not only against these who voted against him and his failure to object to the vote did not raise an estoppel against him. *Hanson* v. *Innis, et al.* (Mass. 1912). 97 N. E. 756.

Upon the facts stated in the opinion, if the transaction had closed with the strike alone, the plaintiff probably would have had no cause of action. For the members of a union as well as an individual can say to their employer, "We are going to quit," and then quit, whatever the reason, and the act is lawful. All courts so hold. Yet, it is submitted, in some instances such an act of a union could logically be held unlawful and actionable, when the pressure exerted by combination and the interest of the public are taken into consideration. But here the strike culminated in the vote and the plaintiff's discharge and therefore, became actionable because unjustifiable. The reasons that lead the courts to construe such strikes unlawful or not, when identical acts done by an individual would not be, present the most interesting phase of the legal side of the labor problem. See NOTE AND COMMENT p. 637.

WILLS—VALIDITY OF CONDITION NOT TO CONTEST.—A will contained a provision that if any beneficiary should contest the will he should receive $5.00 only, and the remainder of his share under the will should be divided among certain designated persons. Certain beneficiaries contested the will on the ground that it was a forgery. *Held,* that the contesting beneficiaries did not forfeit their shares under the will. *Rouse et al.* v *Branch et al.* (S. C. 1912), 74 S. E. 133.

As to personalty, such provisions for forfeiture are inoperative when there is probable cause for the litigations; SCHOULER, WILLS (Ed. 3) § 605, citing *Powell* v. *Morgan,* 2 Vern. 90; *Loyd* v. *Spillet,* 3 P. W. 344; *Morris* v. *Burroughs,* 1 Atk. 404; see also *Bradford* v. *Bradford,* 19 Ohio St. 546: but a gift over of the legacy upon breach will make the condition good, 2 JARMAN, WILLS, Ed. 5, § 59., citing *Cleaver* v. *Spurling,* 2 P. W. 528; *Stevenson* v. *Abington,* 11 W. R. 935; see also *Re Barandon* 41 Misc. 380. In *Cooke* v. *Turner,* 15 M. & W. 727, 14 Sim. 493, such a provision was held valid against a devisee who had contested the will on the ground of the insanity of the testator, though the testator had been found insane by a commission some years before the making of the will; but the court of chancery later allowed an issue of *devisavit vel non* to be tried; see same case on appeal, 15 Sim. 611, 2 Hall & Tw. 162. The decision in the principal case was placed on the grounds of public policy, i.e., that if the rule were otherwise it would encourage such legatees to become morally *participes criminis* by accepting the fruits of what they had probable cause to believe was a forgery. Legatees under similar circumstances in *Friend's Estate,* 209 Pa. St. 422, were held not to forfeit their legacies by contesting a will on probable cause of undue influence, even though the will contained a valid gift over upon breach. As to what constitutes a valid gift over, see *Fifield* v. *Van Wyck,* 94 Va. 557; *Stevenson* v *Abington,* 11 W. R. 935. The tendency would seem to be to disregard the gift over and the reasons for regarding it as enumerated by Sir William GRANT in *Lloyd* v. *Branton,* 3 Mer. 117, as being more academical than practical. *Mallet* v. *Smith,* 6 Rich. Equity (S. C.) 12; *Chew's Appeal,* 45 Pa. St. 228.